

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 20, Subregion 37

OCEANIC TIME WARNER CABLE)	
)	
Employer,)	
)	
and)	
)	
LOCAL 1186, INTERNATIONAL)	No. 20-RC-145340
BROTHERHOOD OF ELECTRICAL)	
WORKERS, AFL-CIO)	
)	
Union.)	
)	
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**EMPLOYER OCEANIC TIME WARNER CABLE'S EXCEPTIONS TO
THE HEARING OFFICER'S REPORT ON CHALLENGED BALLOTS**

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EMPLOYER OCEANIC TIME WARNER CABLE'S EXCEPTIONS TO THE HEARING OFFICER'S REPORT ON CHALLENGED BALLOTS

Pursuant to Section 102.69 of the Rules and Regulations of the National Labor Relations Board ("Board"), the Employer, Oceanic Time Warner Cable ("Company" or "Employer"), by and through its attorneys, the Law Office of Daniel Silverman LLP and Watanabe Ing LLP, hereby files Exceptions to the Hearing Officer's Report on Challenged Ballots ("Report") issued on May 14, 2015, for the following reasons:

1. The Hearing Officer erred in finding that the stipulated unit description is ambiguous, despite the plain meaning of the unit description which includes the Dispatcher.
2. The Hearing Officer erred in finding that extrinsic evidence indicates that the Employer and Union-Petitioner intended not to include the Dispatcher in the stipulated unit, and in recommending that the challenge to the ballot of Cora Bush be sustained. (Report at 31).
3. The Hearing Officer erred in finding that similarities between the inclusion and exclusion provisions of the stipulated unit and those of the Oahu and Maui blue-collar CBAs "are too significant to be ignored," and inferring that the "Parties were actually referring to the language in these CBAs as the basis for the stipulated unit." (Report at 28-29).
4. The Hearing Officer erred in finding that "by relying on the language used to describe the blue-collar units on Oahu and Maui to also describe the stipulated unit, the Parties' historical understandings were logically intended to apply to the instant stipulated unit as well." (Report at 29).

5. The Hearing Officer erred in finding that given the historical bargaining relationship between the Parties on Oahu and Maui, they “could not have failed to understand that the blue-collar unit descriptions did not incorporate the Dispatcher.” (Report at 29).

6. The Hearing Officer erred in finding that the “traditional understanding that dispatchers are excluded from the blue-collar units on Oahu and Maui would also be confirmed by the dispatchers’ inclusion in entirely separate white-collar units on Oahu and Maui.” (Report at 29).

7. The Hearing Officer erred in finding that if the Parties believed Ms. Bush should be included in the stipulated unit, “they would not have used language which they both understood, based on past interpretation and application, did not include dispatchers.” (Report at 29).

8. The Hearing Officer erred in finding that “by relying on substantially the same language used to describe the Oahu and Maui blue-collar units to describe the stipulated unit, the Parties’ intent was not to include the Dispatcher in the stipulated unit.”

9. The Hearing Officer erred in not finding “persuasive” the Employer’s contention that Mr. Akamu intended to include the Dispatcher in the stipulated unit based on his testimony “concerning his communications with the Board Agent supposedly reflecting an intent to include everyone in the unit except those specifically excluded.” (Report at 30).

10. The Hearing Officer erred in finding that Akamu’s testimony on this point not entirely clear. (Report at 26, 30).

11. The Hearing Officer erred in not finding that Mr. Akamu communicated an intent to the Board Agent to include everyone at the Kailua-Kona facility in the unit except those specifically excluded. (Report at 26, 30).

12. The Hearing Officer erred in finding that Mr. Akamu's actions leading up to the election are inconsistent with an intent to include Ms. Bush in the stipulated unit. (Report at 30).

13. The Hearing Officer erred in finding that if Mr. Akamu had intended Ms. Bush to be included in the stipulated unit, he would not have hesitated to raise it with someone prior to the election. (Report at 30).

14. The Hearing Officer erred in finding that the Employer's omission of Ms. Bush's name from the eligibility list twice, in the absence of actual evidence to explain these omissions, appears to be consistent with his ultimate finding that the Parties intended not to include Ms. Bush in the stipulated unit. (Report at 31).

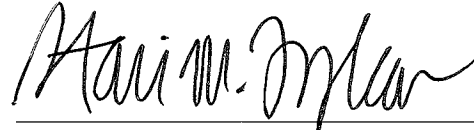
15. The Hearing Officer erred in finding "no evidence that Bush's duties differ greatly from those of dispatchers elsewhere so as to affect the Parties' intent." (Report at 31, fn. 203).

16. The Hearing Officer erred in finding that extrinsic evidence indicates the Employer and Union-Petitioner intended not to include the Dispatcher in the stipulated unit and in sustaining the challenge to the ballot of Ms. Bush. (Report at 38).

17. The Hearing Officer erred in recommending that the Board certify the Union-Petitioner as the collective-bargaining representative of the stipulated unit. (Report at 38).

Accordingly, for the foregoing reasons, and the reasons set forth in the Employer's brief in Support of Exceptions, the Employer respectfully requests that its Exceptions to the Hearing Officer's Report on Challenged Ballots be granted, that the Dispatcher be included in the stipulated unit, and that her ballot be counted.

DATED: Honolulu, Hawaii, May 28, 2015.

A handwritten signature in black ink, appearing to read "Daniel Silverman", written over a horizontal line.

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Attorneys for Employer
OCEANIC TIME WARNER CABLE

CERTIFICATE OF SERVICE

This is to certify that on this 28th day of May 2015, I have served a true and correct copy of **EMPLOYER OCEANIC TIME WARNER CABLE'S EXCEPTIONS TO THE HEARING OFFICER'S REPORT ON CHALLENGED BALLOTS** in Case No. 20-RC-145340 via electronic filing through the National Labor Relations Board's website, www.nlr.gov upon:

National Labor Relations Board
1099 14th St. N.W
Washington, D.C. 20570-0001

A true and correct copy of **EMPLOYER OCEANIC TIME WARNER CABLE'S EXCEPTIONS TO THE HEARING OFFICER'S REPORT ON CHALLENGED BALLOTS** was also served on this 28th day of May 2015 via email and U.S. Mail, postage prepaid, addressed to the following:

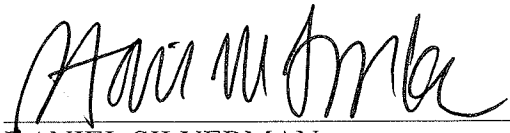
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DATED: Honolulu, Hawaii, May 28, 2015.

A handwritten signature in black ink, appearing to read "Daniel Silverman", written over a horizontal line.

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